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ORDER  
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**FINAL ORDER AS TO ALL PARTIES**

NOV 10 2009

**SRS DISPOSITION**  
NUMBER 12

IN THE CIRCUIT COURT OF THE  
ELEVENTH JUDICIAL CIRCUIT IN AND  
FOR MIAMI-DADE COUNTY, FLORIDA

GENERAL JURISDICTION DIVISION

CASE NO. 09-04275 CA (20)

LOWER TRIBUNAL NO.: RES. Z-28-08

REDLANDS CITIZENS ASSOCIATION,  
INC., a Florida Not-For-Profit Corporation;  
PROTECT SUSTAINABLE AGRICULTURE  
IN MIAMI-DADE COUNTY, INC., a Florida  
Not-For-Profit Corporation; EVERGLADES  
AND AGRICULTURE PRESERVATION  
ASSOCIATION, INC., a Florida Not-For-Profit  
Corporation; and KAREN ESTY, an individual,

Plaintiffs,

v.

MIAMI-DADE COUNTY; and KROME  
GOLD RANCHES II, LLLP,

Defendants.

2009 NOV 12 11:24

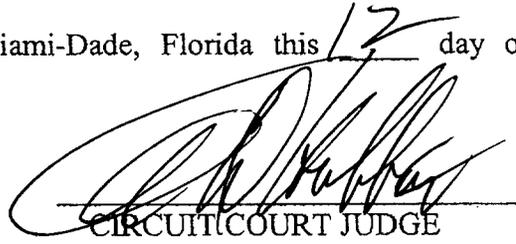
**ORDER OF DISMISSAL WITH PREJUDICE**

THIS CAUSE came on before the Court upon the Notice of Voluntary Dismissal with Prejudice filed by the Plaintiffs, Redlands Citizens Association, Inc., Protect Sustainable Agriculture in Miami-Dade County, Inc., Everglades and Agriculture Preservation Association, Inc. and Karen Esty, and the Court having reviewed the Notice of Voluntary Dismissal with Prejudice, and being otherwise fully advised in the premises, it is hereby

ORDERED and ADJUDGED that this cause is dismissed *with prejudice* as to Defendants, Miami-Dade County and Krome Gold Ranches II, LLLP.

CASE NO. 09-04275 CA (20)  
LOWER TRIBUNAL NO.: RES. Z-28-08  
*Order of Dismissal With Prejudice*

DONE and ORDERED in Chambers at Miami-Dade, Florida this 17 day of  
November, 2009.



CIRCUIT COURT JUDGE

Conformed copies to:  
*Counsel of Record*

GERALD D. HUBBART  
CIRCUIT JUDGE

# 8958224\_v1

IN THE CIRCUIT COURT OF THE  
ELEVENTH JUDICIAL CIRCUIT IN AND  
FOR MIAMI-DADE COUNTY, FLORIDA

GENERAL JURISDICTION DIVISION

CASE NO. 09-04275 CA (20)

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CASE NO. 09-04275 CA (20)  
LOWER TRIBUNAL NO.: RES. Z-28-08  
*Order of Dismissal With Prejudice*

DONE and ORDERED in Chambers at Miami-Dade, Florida this \_\_\_\_\_ day of  
November, 2009.

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CIRCUIT COURT JUDGE

Conformed copies to:  
*Counsel of Record*

# 8958224\_v1

# Holland & Knight

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Eduardo A. Ramos  
305 349 2137  
eduardo.ramos@hklaw.com

November 10, 2009

## VIA HAND DELIVERY

The Honorable Gerald D. Hubbart  
Miami-Dade County Courthouse  
73 West Flagler Street  
Courtroom 243  
Miami, FL 33131

Re: *Redlands Citizens Association, Inc., et al. v. Miami-Dade County and Krome Gold  
Ranches II, LLLP*  
Case No. 09-04275 CA (20)

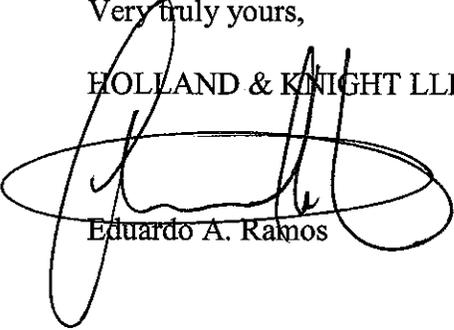
Dear Judge Hubbart:

The parties have resolved the above-referenced matter. Enclosed is a courtesy copy of the Plaintiffs' Notice of Voluntary Dismissal with Prejudice, together with a proposed order for your review. If the proposed order meets with your approval, please execute and return conformed copies in the self-addressed stamped envelopes provided for the Court's convenience.

If you have any questions, please do not hesitate to call.

Very truly yours,

HOLLAND & KNIGHT LLP



Eduardo A. Ramos

Enclosures

cc: W. Tucker Gibbs, Esq. (w/ encl.)  
Andrew Boese, Esq. (w/ encl.)

# 8957938\_v1

IN THE CIRCUIT COURT OF THE  
ELEVENTH JUDICIAL CIRCUIT IN AND  
FOR MIAMI-DADE COUNTY, FLORIDA

GENERAL JURISDICTION DIVISION

CASE NO. 09-04275 CA (20)

LOWER TRIBUNAL NO.: RES. Z-28-08

REDLANDS CITIZENS ASSOCIATION,  
INC., a Florida Not-For-Profit Corporation;  
PROTECT SUSTAINABLE AGRICULTURE  
IN MIAMI-DADE COUNTY, INC., a Florida  
Not-For-Profit Corporation; EVERGLADES  
AND AGRICULTURE PRESERVATION  
ASSOCIATION, INC., a Florida Not-For-Profit  
Corporation; and KAREN ESTY, an individual,

Plaintiffs,

v.

MIAMI-DADE COUNTY; and KROME  
GOLD RANCHES II, LLLP,

Defendants.

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**PLAINTIFFS' NOTICE OF  
VOLUNTARY DISMISSAL WITH PREJUDICE**

Plaintiffs, Redlands Citizens Association, Inc., Protect Sustainable Agriculture in Miami-Dade County, Inc., Everglades and Agriculture Preservation Association, Inc. and Karen Esty, by and through undersigned counsel, hereby gives notice pursuant to Rule 1.420(a) of the Florida Rules of Civil Procedure, that Plaintiffs hereby voluntarily dismiss, *with prejudice*, this action as against Defendants, Miami-Dade County and Krome Gold Ranches II, LLLP.

CASE NO. 09-04275 CA (20)  
LOWER TRIBUNAL NO.: RES. Z-28-08  
*Plaintiffs' Notice of Voluntary Dismissal With Prejudice*

Respectfully submitted,  
W. Tucker Gibbs, P.A.  
Counsel for Plaintiffs

2980 McFarlane Road, Suite 205  
P.O. Box 1050  
Coconut Grove, Florida 33133  
Tel: (305) 448-8486  
Fax: (305) 448-0773

By: W. Tucker Gibbs  
W. Tucker Gibbs, Esq.  
Bar No.: 705217

**CERTIFICATE OF SERVICE**

I hereby certify that a true copy of the foregoing has been furnished by U.S. mail to:

Francisco R. Angones, Esq. Angones, McClure & Garcia, P.A. 44 West Flagler Street 8 <sup>th</sup> Floor Miami, Florida 33131	Andrew Boese Assistant County Attorney Miami-Dade County 111 N.W. First Street, Suite 2810 Miami, Florida 33128
Eduardo A. Ramos, Esq. Holland & Knight LLP 701 Brickell Avenue Suite 3000 Miami, Florida 33131	Robert Krawcheck, Esq. 2655 South LeJeune Road Suite 1016 Coral Gables, Florida 33134-5806

This 10<sup>th</sup> day of November 2009.

By: W. Tucker Gibbs  
W. Tucker Gibbs

IN THE CIRCUIT COURT OF THE  
ELEVENTH JUDICIAL CIRCUIT IN AND  
FOR MIAMI-DADE COUNTY, FLORIDA

GENERAL JURISDICTION DIVISION

CASE NO. 09-04275 CA 20

LOWER TRIBUNAL NO.: RES. Z-28-08

REDLANDS CITIZENS ASSOCIATION,  
INC., a Florida Not-For-Profit  
Corporation; PROTECT SUSTAINABLE  
AGRICULTURE IN MIAMI-DADE COUNTY,  
INC., a Florida Not-For-Profit  
Corporation; EVERGLADES AND  
AGRICULTURE PRESERVATION  
ASSOCIATION, INC., a Florida Not-  
For-Profit Corporation, and Karen  
Esty, an individual

Plaintiffs,

vs.

MIAMI-DADE COUNTY,

Defendant.

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**THE ORIGINAL FILED**  
**ON JAN 20 2009**  
**IN THE OFFICE OF**  
**CIRCUIT COURT MIAMI-DADE CO**  
**CIVIL DIVISION**

COMPLAINT FOR DECLARATORY AND INJUNCTIVE RELIEF  
PURSUANT TO SECTION 163.3215 FLORIDA STATUTES

Plaintiffs, PROTECT SUSTAINABLE AGRICULTURE IN MIAMI-DADE  
COUNTY, INC., REDLANDS CITIZENS ASSOCIATION, INC., EVERGLADES  
AND AGRICULTURE PRESERVATION ASSOCIATION, INC., and KAREN ESTY,  
by and through undersigned counsel, sue defendant, MIAMI-DADE

COUNTY pursuant to Fla. Stat. Sec. 163.3215, and allege as follows:

**NATURE OF THE ACTION  
ALLEGATIONS COMMON TO ALL COUNTS**

1. Plaintiffs challenge the approval of Resolution No. Z-28-08, by the Board of County Commissioners of Miami-Dade County ("County Commission") which granted development approval for Paradise Lakes Ranches a 464.10-acre residential subdivision including 46 single-family homes and a 132.31 acre recreational lake within the Agricultural land use and 1.5 miles west and outside of the Urban Development Boundary established in the Miami-Dade County Comprehensive Development Master Plan. A true and correct copy of Resolution No. Z-28-08 (the "development order") is attached to this complaint as Exhibit "A".

2. The basis for plaintiffs' challenge is that the development order:

A. Will adversely impact the interests the agricultural community of Miami-Dade County protected and furthered by the local government comprehensive plan.

B. Is inconsistent with the county's adopted comprehensive plan; and

C. Harms plaintiffs to a greater degree than the Miami-Dade County community at large, causing plaintiffs to seek a declaration and permanent injunction against

the issuance of any development orders, permits, and/or other development approvals, pursuant to the development order.

#### JURISDICTION AND VENUE

3. The real property at issue ("Krome Gold property") is owned by Krome Gold Ranches II, LLLP ("Krome Gold") and located within Miami-Dade County bounded on the east by Krome Avenue (S.W. 177 Avenue), the south by S.W. 136 Street and the west by S.W. 187 Avenue, in unincorporated Miami-Dade County, Florida.

4. The referenced site plan and development approval (Resolution No. Z-28-08) is a development order pursuant to Florida Statutes Section 163.3164(7).

5. Defendant, Miami-Dade County is subject to the requirements of Section 163, Part 2, Fla. Stat., the Growth Management Act (the "Act").

6. The circuit court has jurisdiction of the subject matter of this action pursuant to Fla. Stat. sections 163.3215, 86.011 and 26.012 (3).

7. Jurisdiction over this matter is appropriate pursuant to Fla. Stat. section 163.3215(3).

8. Plaintiffs are entitled to declaratory relief pursuant to Fla. Stat. section 86.021 because they have an actual, present and practical need for the declaration; the declaration deals

with a present, ascertained or ascertainable state of facts or present controversy as to a state of facts; the plaintiffs have a legal right which is dependent on facts and the law applicable to the facts; they have, or reasonably have an actual present, adverse and antagonistic interest in this matter as to Miami-Dade County ("County"); and that these interests are properly before this court and that the relief the plaintiffs seek is not merely the giving of legal advice or that the answers sought are the result of curiosity.

**PARTIES**  
**Plaintiffs**

9. Plaintiff Redlands Citizens Association, Inc. ("RCA") is a voluntary civic association in existence since 1963 that seeks to preserve the quality of life of the Redlands and additionally to protect the interests of the agricultural community in Miami-Dade County. The president of the RCA, its counsel as well as members spoke before the Miami-Dade County Community Zoning Appeals Board 11 and the BCC at the public hearing at which the development order at issue was approved to object to the approval of the development order.

10. Plaintiff Protect Sustainable Agriculture in Miami-Dade County, Inc. ("Protect Sustainable Agriculture") is a voluntary association representing the interests of its members who are

seeking the protection of sustainable agriculture in Miami-Dade County.

11. Plaintiff Everglades and Agriculture Preservation Association, Inc. ("Everglades and Agriculture Preservation") is a voluntary civic association seeks to preserve and protect the Everglades National Park and its ecosystems, to monitor and advise as to the adequacy of the water supply for all segments of society including agriculture, to study and advise of the measures that will support a viable agricultural economy in Miami-Dade County, and to assist in creating a sustainable South Florida.

12. Plaintiff, Karen Esty, an individual lives at 14445 SW 200th St Miami, FL 33177, outside the Urban Development Boundary. She is a long-time advocate for the preservation of sustainable agriculture. She was present and testified and was represented by counsel at the Miami-Dade County Community Zoning Appeals Board 11 and the BCC at the public hearing at which the development order at issue was approved to object to the approval of the development order.

#### Defendant

13. Defendant Miami-Dade County is a political subdivision of the State of Florida with administrative offices at 111 North West First Street, Miami, Florida.

14. The county is mandated to follow the requirements of the Local Government Comprehensive Planning and Land Development Regulation Act, Chapter 163, Part II, Florida Statutes, (the "Growth Management Act") including the statutory requirement to adopt a local government comprehensive plan and land development regulations.

15. Pursuant to the requirements of the Ch. 163, Part II, Florida Statutes, the county has adopted a comprehensive plan and land development regulations ("Zoning Code") to govern and regulate land use and development decisions within the unincorporated areas of Miami-Dade County.

16. The development order at issue is inconsistent with the county's adopted comprehensive plan.

**STANDING**  
**Legal Requirements**

17. Section 163.3215, Florida Statutes provides the exclusive method by which an aggrieved or adversely affected party may challenge a county's issuance of a development order as inconsistent with the county comprehensive plan.

18. An "aggrieved or adversely affected party" is a party with an interest in the matter that is different in degree from the interest of the community at large.

19. Florida courts, in early decisions regarding the standing provisions in section 163.3215 interpreted this

provision to provide that an "aggrieved or adversely affected party" must show:

- A. The personal or professional interests alleged are protected or furthered by the local government comprehensive plan,
- B. Whether those interests are greater than the general interest in the community's well being, and
- C. Whether the interests are or will be adversely affected by the challenged decision.

Florida Rock Properties v Keyser, 709 So.2d 175, 177 (Fla. 5<sup>th</sup> DCA 1998).

20. In 2000, Florida's Fifth District Court of Appeal distinguished its analysis of section 163.3215 in the Florida Rock decision in Putnam County Environmental Council, Inc. v. Board of County Commissioners of Putnam County, 757 So.2d 590, 593 (Fla. 5<sup>th</sup> DCA 2000). That court reversed the trial court for failing to construe section 163.3215 "liberally," and it clarified that a non-landowning individual and/or organization does have standing to bring an action under section 163.3215 when the "alleged adverse interest...exceeds *in degree* the general interest in community good shared by all persons." Emphasis added.

21. In Payne, et al. v. City of Miami, et al. 927 So.2d 904, (Fla. 3d DCA 2006) the plaintiffs challenged a land use change

from industrial to high-density residential use along the Miami River. Payne alleged that increased residential development on the river would make it more difficult to operate his tugboat business. The trial court granted defendants' motions to dismiss and plaintiffs appealed. The court found that the complaint's allegations showed an adverse interest that "exceed[s] in degree the general interest in community good shared by all persons." Section 163.3215(2) F.S. The appellate judges determined that the plaintiffs in that case had "...sufficiently alleged facts to meet the liberalized standing requirements of section 163.3215." Id.

22. More recently the Fourth District Court of Appeal confirmed the Payne decision in Stranahan House v. City of Fort Lauderdale, 967 So.2d 427,433 (Fla. 4<sup>th</sup> DCA 2007). There the judges confirmed the liberalized standing requirements in section 163.3215. The court found that plaintiff, Friends of the Park at Stranahan House -- whose purpose included the protection of Stranahan House as a historical resource -- met those standing requirements. Id.

23. In the most recent pronouncement on the issue of standing the Fifth District Court of Appeal confirmed (in a decision that is not final and subject to a motion for rehearing) the case law's assumption "...that an organization has an interest that is greater than 'the general interest in

community well being' when the organization's primary purpose includes protecting the particular interest that they allege will be adversely affected by the comprehensive plan violation." See also Save the Homosassa River Alliance, Inc. v. Citrus County, Florida \_\_\_ So.2d \_\_\_, 2008 WL 4681167 (Fla. 5<sup>th</sup> DCA 2008), citing Stranahan at 434. (Also note that court's discussion in footnote 9), decision not final and subject to motion for rehearing.

24. The Miami-Dade County Comprehensive Plan ("CDMP") confirms and restates the Miami-Dade County's Strategic Plan directive that "protection of viable agriculture is a priority." CDMP, I-58. The CDMP states: "In order to protect the agricultural industry, uses incompatible with agriculture, and uses and facilities that support and encourage urban development are not allowed in ... [the Agriculture land use]."

25. Plaintiffs' interests in protecting and preserving agriculture in Miami-Dade County are protected or furthered by the CDMP. Those interests are greater in degree than the general interest in the community's well being.

#### **DEVELOPMENT APPROVAL**

26. Resolution No. Z-28-08, the development order at issue approved Paradise Lakes Ranches a 464.10-acre residential subdivision including 46 single-family homes and a 132.31 acre

recreational lake within the Agricultural land use and 1.5 miles west and outside of the Urban Development Boundary. The site currently is vacant having been used for agricultural purposes.

27. On December 19, 2007, Krome Gold submitted an application for a district boundary change (from Agriculture to EU-2, Five Acre Residential Estate District), two unusual uses to permit a recreational lake excavation and a private recreational facility and a non-use variance to waive certain zoned rights-of-way within its 466-acre property west of the Miami-Dade County Urban Development Boundary. The submittal included a site plan for the Paradise Lake Ranches including 58 houses a private recreational facility and a 132-acre recreational lake.

28. The application was presented to Community Zoning Appeals Board 11 ("CZAB 11") for its consideration and approval pursuant to section 33-309 of the Miami-Dade County Zoning Code.

29. The Miami-Dade County Planning Department staff report for that hearing recommended a denial of each of the requests contained within the application.

30. At the hearing, the applicant announced it was withdrawing its request for a district boundary change and other requests.

31. After presentation by the applicant and public, CZAB 11 voted 4-3 on a motion to approve the application as amended.

Under provisions of Land Use Policy LU-3F of the CDMP any zoning action that approves "any use other than direct production and permitted residential uses of property in an area designated as Agriculture, whether as a primary use or as an accessory or subordinated use to an agricultural use, or action that would liberalize standards or allowances governing such other uses on land that is a) outside the Urban Development Boundary (UDB), and b) within one mile of the right-of-way line of any portions of Krome Avenue designated in [the] Plan for improvement to 4-lanes..." requires five votes at the CZAB and two-thirds vote of "the total membership of the Board of County Commissioners then in office." Therefore the motion to approve failed. The CZAB then voted to defer the item until its next meeting on July 8, 2008.

32. At its July 8, 2008 hearing the CZAB 11 heard testimony from the applicant and the public and voted 4-3 on a motion to approve the application. The motion failed pursuant to the five vote requirement set forth in CDMP Land Use Policy LU-3F. The council then voted to deny the application, allowing the applicant to file an appeal to the Miami-Dade County Board of County Commissioners ("BCC").

33. The applicant filed its appeal to the BCC on July 10, 2008. After several deferrals the BCC heard the appeal on November 6, 2008.

34. The applicant at the hearing amended its application to delete all the requests except the request for an unusual use to permit a recreational lake excavation.

35. At the hearing the BCC voted 8-4 that the 9-vote application approval requirement (two-thirds of the membership of the BCC) set forth in Land Use Policy LU-3F did not apply to the appeal of the CZAB 11 denial of the amended application.

36. After hearing testimony and evidence from both the applicant and the public, the BCC voted 8-4 to grant the appeal, and overrule the decision of CZAB 11 with specific conditions.

37. That decision is set out in the development order at issue here, Resolution No. Z-28-08. And that development order was filed with the Clerk of the County Commission on December 18, 2008. (see Exhibit "A").

#### **IMPACTS ADVERSELY AFFECTING EACH PLAINTIFF**

38. The construction of the project contemplated in the development order approved by the BCC will negatively impact the interests of the R~~N~~A, Protect Sustainable Agriculture, and Everglades and Agriculture Preservation Association. The approval of the development order will further the decline of the agricultural industry in Miami-Dade County by permitting 1) residential development in an area with an agricultural land use designation thereby removing 466 acres from the county's limited

agricultural area and 2) the excavation of a 30-foot deep 132-acre recreational lake that will cause the permanent removal of valuable agricultural land from Miami-Dade County's protected agricultural land use area.

39. Pursuant to the section 163.3177(6)(a), Florida Statutes, the Growth Management Act, the county's comprehensive plan must include future land use categories that must include standards to be followed in the control and distribution of population densities and building and structure intensities. The future land use map includes the Agriculture land use. And the CDMP includes specific goals, objectives and policies to protect agriculture in Miami-Dade County.

40. The CDMP also includes goals, objectives and policies regarding water conservation to protect and conserve Miami-Dade County's dwindling supply of fresh water.

41. Section 163.3215, Florida Statutes, states that aggrieved parties such as the RCA and the Preserve Sustainable Agriculture, Everglades and Agriculture Preservation and Karen Esty:

"may maintain a de novo action for declaratory, injunctive, or other relief against any local government to challenge any decision of such local government granting or denying an application for, or to prevent such local government from taking any action on a development order ... which materially

alters the use or density or intensity of use on a particular piece of property which is not consistent with the comprehensive plan..."

42. The BCC's approval of this development order is a material alteration of the use and intensity of use on the property at located at the northwest corner of Krome Avenue and 136 Street in Miami-Dade County that will significantly impact the interests of the plaintiffs by reducing valuable agricultural land in Miami-Dade County contrary to the CDMP.

43. The failure of the county to reject this development order will result in less agricultural land and the increased opportunity for degraded fresh water thus altering plaintiffs' interests in protecting valuable and limited agricultural land in Miami-Dade County protected by the CDMP.

44. The interests of each of the plaintiffs as advocates of the preservation and protection of Miami-Dade County's valuable agricultural industry and land exceeds in degree the general interest in community good shared by all persons because plaintiffs are organizations that seek to protect agriculture in Miami-Dade County. Therefore plaintiffs have standing to bring this action. Payne, et al. v. City of Miami, et al. 927 So.2d 904, (Fla. 3d DCA 2006); Stranahan House v. City of Fort Lauderdale, 967 So.2d 427,433 (Fla. 4<sup>th</sup> DCA 2007); Putnam County Environmental Counsel, Inc. v. Board of County Commissioners of

Putnam County, 757 So. 2d 590 (Fla. 5th DCA 2000). See also Save the Homosassa River Alliance, Inc. v. Citrus County, Florida \_\_\_ So.2d \_\_\_, 2008 WL 4681167 (Fla. 5<sup>th</sup> DCA 2008), decision not final and subject to motion for rehearing.

**COUNT 1  
DECLARATORY RELIEF  
INCONSISTENCY WITH COMPREHENSIVE PLAN**

45. The ~~RCA~~ Everglades and Agriculture Preservation, Preserve Sustainable Agriculture, and Karen Esty readopt and reallege paragraphs 1-44, as if set forth and incorporated herein and further state: by virtue of the disputes between the parties, a justiciable issue has arisen creating a bona fide, actual controversy pursuant to section 163.3215, Florida Statutes that invokes the declaratory powers of this court pursuant to Chapter 86 of the Florida Statutes.

46. A controversy has arisen between the plaintiffs and the defendants resulting in the plaintiffs being in doubt of their rights.

47. The development approval at issue here, which allows a residential use and recreational lake in the Agricultural land use category (such agricultural use protected by the CDMP), materially alters the intensity of development on the subject property.

48. Defendant Miami-Dade County's approval of the site plan is inconsistent with the following goals, objectives and policies of the county's comprehensive plan:

49. The BCC's approval of this site plan is inconsistent with the Land Use Goal of the CDMP which states:

"Provide the best possible distribution of land use and services to meet the physical, social, cultural and economic needs of the present and future populations in a timely and efficient manner that will maintain or improve the quality of the natural and man-made environment and amenities and preserve Miami-Dade County's unique agricultural lands."

a. The development order is contrary to this goal because it removes protected and valuable agricultural land from the county's inventory of agricultural land. Preservation of agricultural lands is an interest of plaintiffs that is protected by this land use goal in the CDMP. The interest of the plaintiffs exceeds in degree the general interest in community good shared by all persons because plaintiffs are organizations and individuals that seek to protect agriculture in Miami-Dade County.

b. The development order is inconsistent with this goal in that the residential use as set forth on the plans presented to Miami-Dade County, coupled with the recreational lake excavation does nothing to "preserve Miami-Dade County's unique agricultural lands." Preservation of agricultural lands is an

interest of plaintiffs that is protected by this land use goal in the CDMP. The interest of the plaintiffs exceeds in degree the general interest in community good shared by all persons because plaintiffs are organizations and individuals that seek to protect agriculture in Miami-Dade County.

c. This development order permits a residential subdivision including a recreational lake with no relationship to any farm or agricultural use, thus contributing to an expansion of suburban residential development in this agricultural land use designated area contrary to this land use goal. Prohibition of non-agriculture-related residential development in the agricultural land use designation and preservation of agricultural lands is an interest of plaintiffs that is protected by this land use goal in the CDMP. The interest of the plaintiffs exceeds in degree the general interest in community good shared by all persons because plaintiffs are organizations and individuals that seek to protect agriculture in Miami-Dade County.

50. The BCC's approval of this site plan is inconsistent with Land Use Element Objective LU-1 of the CDMP which states:

"The location and configuration of Miami-Dade County's urban growth through the year 2025 shall emphasize concentration and intensification of development around centers of activity, development of well designed communities containing a variety of uses, housing types and public services, renewal and

rehabilitation of blighted areas, and contiguous urban expansion when warranted, rather than sprawl.”

a. The development order is contrary to this objective because it places a suburban subdivision with no relationship to farming and agriculture in an area that has a land use of agriculture thus encouraging the sprawl this land use objective rejects.

Prohibition of non-agriculture-related residential development and suburban sprawl in the agricultural land use designation and preservation of agricultural lands is an interest of plaintiffs that is protected by this land use objective in the CDMP. The interest of the plaintiffs exceeds in degree the general interest in community good shared by all persons because plaintiffs are organizations and individuals that seek to protect agriculture in Miami-Dade County by opposing the expansion of non-agricultural uses such as a non-farm related residential development and recreational lake in an agricultural area outside the Urban Development Boundary.

b. This development order permits a residential subdivision including recreational lake with no relationship to any farm or agricultural use, thus contributing to an expansion of suburban residential development in this agricultural land use designated area contrary to this land use objective. Prohibition of non-agriculture-related residential development in the agricultural land use designation and preservation of agricultural lands is

an interest of plaintiffs that is protected by this land use objective in the CDMP. The interest of the plaintiffs exceeds in degree the general interest in community good shared by all persons because plaintiffs are organizations and individuals that seek to protect agriculture in Miami-Dade County.

51. The BCC's approval of this site plan is inconsistent with Land Use Element Policy LU-10 of the CDMP which states:

"Miami-Dade County shall seek to prevent discontinuous, scattered development at the urban fringe particularly in the Agriculture Areas, through its CDMP amendment process, regulatory and capital improvements programs and intergovernmental coordination activities."

The development order is contrary to this policy because it places a suburban subdivision with no relationship to farming and agriculture past the urban fringe in an agricultural area thus encouraging the discontinuous, scattered development this land use policy rejects. Prevention of discontinuous, scattered development at the urban fringe particularly in agriculture areas and preservation of agricultural lands is an interest of plaintiffs that is protected by this land use policy in the CDMP. The interest of the plaintiffs exceeds in degree the general interest in community good shared by all persons because plaintiffs are organizations and individuals that seek to protect agriculture in Miami-Dade County by opposing discontinuous, scattered development which expands non-

agricultural uses such as a non-farm related residential development and recreational lake in an agricultural area outside the Urban Development Boundary.

52. The BCC's approval of this site plan is inconsistent with Land Use Element Policy LU-1P of the CDMP which states:

"While continuing to protect and promote agriculture as a viable economic activity in the County, Miami-Dade County shall explore and may authorize alternative land uses in the South Dade agricultural area which would be compatible with agricultural activities and associated rural residential uses, and which would promote ecotourism related to the area's agricultural and natural resource base including Everglades and Biscayne National Parks."

The development order is contrary to this policy because it places a suburban subdivision with no relationship to or compatibility with agricultural activities and associated rural residences. Protecting and promoting agriculture as a viable economic activity in the Miami-Dade County is an interest of plaintiffs that is protected by this land use policy in the CDMP. The interest of the plaintiffs exceeds in degree the general interest in community good shared by all persons because plaintiffs are organizations and individuals that seek to protect agriculture in Miami-Dade County by opposing development that is incompatible with agricultural activities and associated rural residential uses such as a non-farm related residential development and recreational lake in an agricultural area outside the Urban Development Boundary.

53. The BCC's approval of this site plan is inconsistent with Land Use Element Policy LU-1S of the CDMP which states:

"The Comprehensive Development Master Plan (CDMP) shall be consistent with the Miami-Dade County Strategic Plan adopted by the County Commission on June 3, 2003 by Resolution R-664-03. The Miami-Dade County Strategic Plan includes countywide community goals, strategies and key outcomes for Miami-Dade County government. Key outcomes of the Strategic Plan that are relevant to the Land Use element of the CDMP include increased urban infill development and decreased urban sprawl, protection of viable agriculture and environmentally-sensitive land, improved community design, reduced flooding, improved infrastructure and redevelopment to attract businesses to underserved and distressed areas, available and high quality green space throughout the County, and more integrated land-use development to decrease dependence on automobiles."

a. The development order is contrary to this policy because it causes a net loss of agricultural land -- contrary to Strategic Plan Outcome NU1-2 -- particularly regarding the permanent removal of 132 acres of agricultural land because of the lake excavation as well as the introduction into the agriculture land use designation of suburban housing unrelated to agriculture. Protecting and promoting agriculture by opposing any reduction in agricultural land is an interest of plaintiffs that is protected by this land use policy in the CDMP. The interest of the plaintiffs exceeds in degree the general interest in community good shared by all persons because plaintiffs are organizations and individuals that seek to protect agriculture in Miami-Dade County by opposing development that diminishes

agricultural land such as a non-farm related residential development and recreational lake excavation in an agricultural area outside the Urban Development Boundary.

b. The development order is contrary to this objective because it increases sprawl by locating a residential community west of the UDB and viable agricultural land. Protecting and promoting agriculture by opposing any reduction in agricultural land and opposing further urban/suburban sprawl outside of the Urban Development Boundary is an interest of plaintiffs that is protected by this land use policy in the CDMP. The interest of the plaintiffs exceeds in degree the general interest in community good shared by all persons because plaintiffs are organizations and individuals that seek to protect agriculture in Miami-Dade County by opposing development that diminishes agricultural land and encourages urban/suburban sprawl such as a non-farm related residential development and lake excavation in an agricultural area outside the Urban Development Boundary.

54. The BCC's approval of this site plan is inconsistent with Land Use Element Policy LU-3F of the CDMP which states:

"Any zoning action or amendment to the CDMP that would approve any use other than direct production and permitted residential uses of property, in an area designated as Agriculture, whether as a primary use or as an accessory or subordinated use to an agricultural use, or action that would liberalize standards or allowances governing such other uses on land that is, a) outside the Urban Development Boundary (UDB), and b) within one mile of the right-

of-way line of any portions of Krome Avenue designated in this Plan for improvement to 4-lanes, shall require an affirmative vote of not less than five members of the affected Community Zoning Appeals Board and two-thirds of the total membership of the Board of County Commissioners then in office, where such Community Zoning Appeals Board or Board of County Commissioners issues a decision. The term 'direct agricultural production' includes crops, livestock, nurseries, groves, packing houses, and barns but not uses such as houses of worship, schools, sale of produce and other items, and outdoor storage vehicles. This policy is not intended to permit any use not otherwise permitted by the CDMP. Any modification to this section to allow additional uses within the one mile distance from Krome Avenue shall require an affirmative vote of not less than two-thirds of the Board of County Commissioners then in office."

The BCC's approval of this development order is contrary to this policy because even though the development order met the requirements of this policy for a two-thirds vote of the total membership of the Board of County Commissioners then in office for approval, the BCC approved the application by a two-thirds vote of BCC members present. Because protecting and promoting agriculture -- including agricultural properties outside the Urban Development Boundary and within one mile of the right-of-way line of Krome Avenue -- is an interest of plaintiffs that is protected by this land use policy in the CDMP. The interest of the plaintiffs exceeds in degree the general interest in community good shared by all persons because plaintiffs are organizations and individuals that seek to protect agriculture in Miami-Dade County by opposing development that diminishes

agricultural land and encourages urban/suburban sprawl such as a non-farm related residential development and recreational lake excavation in an agricultural area. The failure of the BCC to follow this land use policy impacts plaintiffs' interests because the development order would have been rejected -- and agricultural land would have been preserved -- if the BCC had correctly followed this land use policy.

55. The BCC's approval of this site plan is inconsistent with Land Use Element Objective LU-5 of the CDMP which states:

"Upon the adoption of this plan, all public and private activities regarding the use, development and redevelopment of land and the provision of urban services and infrastructure shall be consistent with the goal, objectives and policies of this Element, with the adopted Population Estimates and Projections, and with the future uses provided by the adopted Land Use Plan (LUP) map and accompanying text titled "Interpretation of the Land Use Plan Map", as balanced with the Goals, Objectives and Policies of all Elements of the Comprehensive Development Master Plan."

The development order is contrary to this objective because it ignores the language in the goal, objectives and policies of the Land Use Element, the land use map and the accompanying text titled "Interpretation of the Land Use Plan Map." Protecting and promoting agriculture by opposing any reduction in agricultural land is an interest of plaintiffs that is protected by this land use policy in the CDMP. The interest of the plaintiffs exceeds in degree the general interest in community good shared by all

persons because plaintiffs are organizations and individuals that seek to protect agriculture in Miami-Dade County by opposing development that diminishes agricultural land such as a non-farm related residential development and recreational lake excavation in an agricultural area outside the Urban Development Boundary.

56. The BCC's approval of this site plan is inconsistent with Land Use Element Policy LU-5A of the CDMP which states:

"The textual material titled 'Interpretation of the Land Use Plan Map' contained in this Element establishes standards for allowable land uses, and densities or intensities of use for each land use category identified on the adopted Land Use Plan (LUP) map, and is declared to be an integral part of these adopted Land Use Policies."

The development order is contrary to this objective because it ignores the "Interpretation of the Land Use Plan Map" provisions in the Land Use Element of the CDMP including but not limited to a prohibition of non-farm residences and a non-farm related lake excavation for private sporting and recreational uses in the agricultural land use. Prohibition of non-agriculture-related residential development in the agricultural land use designation and preservation of agricultural lands is an interest of plaintiffs that is protected by this land use policy in the CDMP. The interest of the plaintiffs exceeds in degree the general interest in community good shared by all persons because plaintiffs and individuals are organizations that seek to

protect agriculture in Miami-Dade County by opposing the expansion of non-agricultural uses such as a non-farm related residential development and recreational lake excavation in an agricultural area outside the Urban Development Boundary.

57. The BCC's approval of this site plan is inconsistent with Land Use Element Policy LU-5B of the CDMP which states:

"All development orders authorizing a new land use or development, or redevelopment, or significant expansion of an existing use shall be contingent upon an affirmative finding that the development or use conforms to, and is consistent with the goals, objectives and policies of the CDMP including the adopted LUP map and accompanying 'Interpretation of the Land Use Plan Map' The Director of the Department of Planning and Zoning shall be the principal administrative interpreter of the CDMP."

The development order is contrary to this objective because development and the use fail to conform with the CDMP including the 'Interpretation of the Land Use Plan Map' because the non-farm related development along with the non-farm related lake excavation is contrary to directives in the CDMP requiring development in the agricultural land use must be related to farm and agriculture uses. Prohibition of non-agriculture related residential development in the agricultural land use designation and preservation of agricultural lands is an interest of plaintiffs that is protected by this land use policy in the CDMP. The interest of the plaintiffs exceeds in degree the

general interest in community good shared by all persons because plaintiffs are organizations and individuals that seek to protect agriculture in Miami-Dade County by opposing the expansion of non-agricultural uses such as a non-farm related residential development and recreational lake excavation in an agricultural area outside the Urban Development Boundary.

58. The BCC's approval of this site plan is inconsistent with the Water Sewer and Solid Waste Element Goal of the CDMP which states:

"Provide for potable water and sanitary sewer facilities which meet the county's needs in a manner that promotes the public health, environmental protection, operational efficiency, CDMP-planned land use and economic opportunity."

The development order is contrary to this goal because the recreational lake increases the opportunity for intrusion of contaminants into the Biscayne Aquifer from where much of the potable water supply for Miami-Dade County is drawn. Therefore this project -- in particular the recreational lake -- does not promote the public health or environmental protection in the county's provision of potable water. Protecting the county supply of potable water is a critical factor in protecting the county's agricultural industry and the people who live in the agricultural areas of Miami-Dade County. Therefore protecting the county supply of potable water is an interest of plaintiffs

that is protected by this water, sewer and solid waste policy in the CDMP. The interest of the plaintiffs exceeds in degree the general interest in community good shared by all persons because plaintiffs are organizations and individuals that seek to protect agriculture in Miami-Dade County by opposing the expansion of non-agricultural uses such as a non-farm related recreational lake that increases the opportunity for intrusion of contaminants into the Biscayne Aquifer -- the source of much of the county's potable water supply.

59. The BCC's approval of this site plan is inconsistent with the Water Sewer and Solid Waste Element Objective WS-1H of the CDMP which states:

"New water supply or wastewater collection lines should not be extended to provide service to land within areas designated Agriculture, Open Land, or Environmental Protection on the Land Use Plan map. New water or wastewater lines to serve land within these areas should be approved or required only where the absence of the facility would result in an imminent threat to public health or safety. The use of on-site facilities should be given priority consideration. In all cases, facilities should be sized only to service the area where the imminent threat would exist, to avoid inducing additional urban development in the area. This policy will not preclude federal, State or local long-range planning or design of facilities to serve areas within the Urban Development Boundary (UDB) or Urban Expansion Area (UEA). Public health and safety determinations will be made in accordance with Chapter 24 of the Code of Miami-Dade County (Environmental Protection) and Section 2-103.20, et seq., (Water Supply for Fire Suppression) Code of Miami-Dade County."

To the extent that this development order provides approvals that cause the provision of water supply and wastewater collection lines to this project, such infrastructure is contrary to this policy. This (and other) residential uses as well as the lake excavation outside the Urban Development Boundary and outside the Urban Expansion Area are also contrary to other provisions of the CDMP and will place further pressure on the water provision infrastructure that is contrary to this policy. Protecting the county's agricultural lands and industry is an interest of plaintiffs that is protected by this water, sewer and solid waste policy in the CDMP. The interest of the plaintiffs exceeds in degree the general interest in community good shared by all persons because plaintiffs are organizations and individuals that seek to protect agriculture in Miami-Dade County by opposing the expansion of non-agricultural uses such as a non-farm related residential development -- including a non-farm related lake excavation -- that will further reduce the land available for agricultural uses.

60. The BCC's approval of this site plan is inconsistent with the Conservation, Aquifer Recharge and Drainage Element Objective CON-2 of the CDMP which states:

"Protect ground and surface water resources from degradation, provide for effective surveillance for pollution and clean up polluted areas to meet all applicable federal, state and county ground and surface water quality standards."

The development order is contrary to this policy because the non-farm residential development and the recreational lake outside the Urban Development Boundary approved through that order does not protect ground and surface water resources from degradation. Protecting the county supply of ground and surface water resources from degradation and the health safety and welfare of residents in agricultural areas who use well water is a critical factor in protecting the county's agricultural industry. Therefore protecting the county supply ground and surface water resources from degradation and the health safety and welfare of residents in agricultural areas who use well water is an interest of plaintiffs that is protected by this conservation, aquifer recharge and drainage policy in the CDMP. The interest of the plaintiffs exceeds in degree the general interest in community good shared by all persons because plaintiffs are organizations and individuals that seek to protect agriculture in Miami-Dade County by opposing the expansion of non-agricultural uses such as a non-farm related lake excavation that does not protect ground and surface water resources from degradation.

61. The BCC's approval of this site plan is inconsistent with the Conservation, Aquifer Recharge and Drainage Element Objective CON-6 of the CDMP which states:

"Soils and mineral resources in Miami-Dade County

shall be conserved and appropriately utilized in keeping with their intrinsic values."

The development order is contrary to this policy because the non-farm residential development and the lake excavation outside the Urban Development Boundary approved through that order removes soil uniquely suited for agricultural use. Conserving soil resources is a critical factor in protecting the county's agricultural industry. Therefore conserving the county's soil resources is an interest of plaintiffs that is protected by this conservation, aquifer recharge and drainage policy in the CDMP. The interest of the plaintiffs exceeds in degree the general interest in community good shared by all persons because plaintiffs are organizations and individuals that seek to protect agriculture in Miami-Dade County by opposing the expansion of non-agricultural uses such as a non-farm related lake excavation that includes the removal of soil from agriculture use.

62. Miami-Dade County wrongly contends that the BCC's action approving the development order as consistent with the county's comprehensive plan. But the development order is not consistent with the specific provisions of the CDMP as set forth herein.

63. There is a bona fide present and practical need for a declaration because the development order will have an adverse impact on plaintiffs' interest in protecting Miami-Dade County's

dwindling supply of agricultural land which interest is also protected and furthered by the CDMP.

64. A declaration regarding these adverse and antagonistic interests is appropriate in light of the conflicting positions which directly affect whether and under what conditions the Paradise Lake Ranches site is developed.

65. This development order approval affects the interests of RMA, Preserve Sustainable Agriculture, Everglades and Agriculture Preservation Association, which seek the protection of Miami-Dade County's agricultural lands.

66. Plaintiffs have no adequate remedy at law, and there is an actual, practical and present need for declaratory judgment.

67. Pursuant to section 163.3215, Florida Statutes, this declaratory action is the exclusive remedy for an aggrieved third party to challenge the consistency of a development order with the county's comprehensive plan.

68. Pursuant to section 163.3215 and chapter 86, Florida Statutes, this court has jurisdiction to declare rights or other equitable or legal relations between these parties.

69. Both plaintiffs which seek to protect the agricultural land from non-agricultural use have an interest in the development order and its impact on the interests of the plaintiffs protected by the CDMP. Plaintiffs are concerned with the negative impacts of non-agriculture development in areas of

Miami-Dade County with a land use of Agriculture and, therefore, have an interest in the project's consistency with the CDMP.

70. These plaintiffs request that this court settle and afford relief from their insecurity and uncertainty with respect to their rights and status regarding the approval of the development order contrary to the CDMP.

71. Plaintiffs seek a declaration regarding the validity of the development order. Because this action is the exclusive method by which plaintiffs can obtain a legal determination as to the consistency of this development order with the comprehensive plan, no other legal remedy is available to the plaintiffs in the resolution of this controversy.

**WHEREFORE**, plaintiffs request the court enter judgment declaring that the BCC acted inconsistently with, and contrary to the requirements of the Miami-Dade County Comprehensive Development Master Plan when it approved Resolution No. Z-28-08 (approving the development application of Krome Gold Ranches II for the Paradise Lake Ranches residential development on its property at the north west corner of Krome Avenue and 136 Street) and reverse, set aside and vacate the development order; award costs of this action to petitioners; and grant plaintiffs such other and further relief as it may deem just, proper, and necessary.

COUNT 2  
INJUNCTIVE RELIEF  
INCONSISTENT WITH COMPREHENSIVE PLAN

72. Plaintiffs readopt and reallege paragraphs 1 through 71 as if fully set forth and incorporated herein.

73. This is a count for permanent injunctive relief to enjoin Miami-Dade County from the implementation of the development order which is the subject of this action.

74. Unless restrained, defendant Miami-Dade County will issue further development permits authorizing the development of the Paradise Lake Ranches development site pursuant to the development order approved in violation of the CDMP.

75. Immediate and irreparable injury, loss and damage will result to the plaintiffs by this action of the county because

- The development order at issue authorizes the removal of valuable and CDMP-protected agricultural land and thus damage the county's protected agricultural industry and plaintiffs' interests in protecting agricultural land in Miami Dade County.
- The development order sets a precedent that will allow additional non-agricultural development in the CDMP agricultural land use thereby diminishing critical, valuable and CDMP-protected agricultural land. This will damage plaintiffs' interests in

preserving and protecting agriculture in Miami-Dade County.

76. Section 163.3215(3), Florida Statutes specifically provides for injunctive relief and granting such injunctive relief in this case is in the public interest.

77. This action is the plaintiffs' remedy at law as set forth in Section 163.3215(3), Florida Statutes.

78. All conditions precedent to the maintenance of this action have been satisfied by the plaintiffs or have been waived by the conduct of the county.

**WHEREFORE**, plaintiffs request the court issue an order enjoining the Miami-Dade County from issuing any further development orders, permits and/or other development approvals pursuant to the development order for the project -- Resolution No. Z-28-08; award costs of this action to petitioners; and grant plaintiffs such other and further relief as it may deem just, proper, and necessary.

Dated: January 20, 2009

Respectfully Submitted,  
W. TUCKER GIBBS, P.A.  
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Attorney for Plaintiffs

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By: W. Tucker Gibbs  
W. Tucker Gibbs  
Fla. Bar No.: 0705217

**EXHIBIT "A"**

Approved: \_\_\_\_\_ Mayor

Veto: \_\_\_\_\_

Override: \_\_\_\_\_

**RESOLUTION NO. Z-28-08**

WHEREAS, **KROME GOLD RANCHES II L. L. L. P** applied to Community Zoning

Appeals Board 11 for the following:

- (1) GU to EU-2
- (2) UNUSUAL USE to permit a lake excavation.
- (3) UNUSUAL USE to permit a private recreational facility; to wit: a clubhouse, including stables and boat storage.
- (4) Applicant is requesting to waive the zoning regulations requiring half-section line rights-of-way to be 70' in width; to permit no dedication for theoretical S.W. 182 Avenue and theoretical S.W. 128 Street.
- (5) Applicant is requesting to to permit Lots 33, 34 and 35 with frontages varying from 94.52' to 138.02' (200' required).
- (6) Applicant is requesting to waive the zoning and subdivision regulations requiring non-residential lots to have frontage on a public street; to permit a lot containing the private recreation facility with no frontage on a public street (200' required) and to have access to the said lot by means of a private easement.

Upon a demonstration that the applicable standards have been satisfied, approval of requests #4 and #5 may be considered under §33-311(A)(4)(b) (Non-Use Variance) or (c) (Alternative Non-Use Variance) and approval of request #6 must be considered under Chapter 28 §19(A) of the Public Works Code.

Plans are on file and may be examined in the Department of Planning and Zoning entitled "Paradise Lake Ranches, Krome Gold Ranches II, LLLP," as prepared by Perez, Pascual and Kiliddjian and Assocs., consisting of 25 sheets and dated stamped received 2/29/08.

SUBJECT PROPERTY: The south  $\frac{3}{4}$  of Section 13, Township 55 South, Range 38 East, less the following parcels:

The east  $\frac{1}{2}$  of the SW  $\frac{1}{4}$  of the SW  $\frac{1}{4}$  of the SW  $\frac{1}{4}$  of Section 13, Township 55 South, Range 38 East, less the south 40' thereof for right-of-way purposes; A/K/A: Lot 74 of CIARA INVESTMENTS, INC. AND: The west  $\frac{1}{2}$  of the SE  $\frac{1}{4}$  of the SW  $\frac{1}{4}$  of the SW  $\frac{1}{4}$  of Section 13, Township 55 South, Range 38 East, less the south 40' thereof for right-of-way purposes; A/K/A: Lot 75 of CIARA INVESTMENTS, INC.; AND: The east  $\frac{1}{2}$  of the SE  $\frac{1}{4}$  of the SW  $\frac{1}{4}$  of the SW  $\frac{1}{4}$  of Section 13, Township 55 South, Range 38 East, less the south 40' thereof for right-of-way purposes; A/K/A: Lot 76 of CIARA INVESTMENTS, INC.

LOCATION: Lying north of S.W. 136 Street, between S.W. 177 Avenue and S.W. 187 Avenue, Miami-Dade County, Florida, and

*WHEREAS*, a public hearing of Community Zoning Appeals Board 11 was advertised and held, as required by law, and all interested parties concerned in the matter were given an opportunity to be heard, and upon due and proper consideration having been given to the matter it was the opinion of Community Zoning Appeals Board 11 that the requested district boundary change to EU-2 (Item #1) would not be compatible with the neighborhood and area concerned and would be in conflict with the principle and intent of the plan for the development of Miami-Dade County, Florida, and should be denied, and that the requested unusual uses to permit a lake excavation (Item #2) and a private recreational facility; to wit: a clubhouse, including stables and boat storage (Item #3), and the requests to waive the zoning regulations requiring half-section line rights-of-way to be 70' in width; to permit no dedication for theoretical S.W. 182 Avenue and theoretical S.W. 128 Street (Item #4), to permit Lots 33, 34 and 35 with frontages varying from 94.52' to 138.02' (Item #5) and to waive the zoning and subdivision regulations requiring non-residential lots to have frontage on a public street; to permit a lot containing the private recreation facility with no frontage on a public street and to have access to the said lot by means of a private easement (Item #6) would not be compatible with the area and its development and would not be in harmony with the general purpose and intent of the regulations and would not conform with the requirements and intent of the Zoning Procedure Ordinance, and that the requested unusual uses (Items #2 & 3) would have an adverse impact upon the public interest and should be denied, and said application was denied without prejudice by Resolution No. CZAB11-14-08, and

WHEREAS, KROME GOLD RANCHES II L. L. P appealed the decision of Community Zoning Appeals Board 11 to the Board of County Commissioners for the following:

- (1) GU to EU-2
- (2) UNUSUAL USE to permit a lake excavation.
- (3) UNUSUAL USE to permit a private recreational facility; to wit: a clubhouse, including stables and boat storage.
- (4) Applicant is requesting to waive the zoning regulations requiring half-section line rights-of-way to be 70' in width; to permit no dedication for theoretical S.W. 182 Avenue and theoretical S.W. 128 Street.
- (5) Applicant is requesting to permit Lots 33, 34 and 35 with frontages varying from 94.52' to 138.02' (200' required).
- (6) Applicant is requesting to waive the subdivision regulations requiring lots to have frontage on a public street; to permit a lot containing the private recreation facility with no frontage on a public street and to have access to the said lot by means of a private easement.

Upon a demonstration that the applicable standards have been satisfied, approval of requests #4 and #5 may be considered under §33-311(A)(14) (Alternative Site Development Option for Single-Family and Duplex Dwelling Units or under §33-311(A)(4)(b) (Non-Use Variance) or (c) (Alternative Non-Use Variance) and approval of request #6 must be considered under Chapter 28 §19(A) of the Public Works Code.

Plans are on file and may be examined in the Department of Planning and Zoning entitled "Paradise Lake Ranches, Krome Gold Ranches II, LLLP," as prepared by Perez, Pascual and Kiliddjian and Assocs, consisting of 25 sheets and dated stamped received 2/29/08. Plans may be modified at public hearing.

SUBJECT PROPERTY: The south  $\frac{3}{4}$  of Section 13, Township 55 South, Range 38 East, less the following parcels:

The east  $\frac{1}{2}$  of the SW  $\frac{1}{4}$  of the SW  $\frac{1}{4}$  of the SW  $\frac{1}{4}$  of Section 13, Township 55 South, Range 38 East, less the south 40' thereof for right-of-way purposes; A/K/A: Lot 74 of CIARA INVESTMENTS, INC. AND: The west  $\frac{1}{2}$  of the SE  $\frac{1}{4}$  of the SW  $\frac{1}{4}$  of the SW  $\frac{1}{4}$  of Section 13, Township 55 South, Range 38 East, less the south 40' thereof for right-of-way purposes; A/K/A: Lot 75 of CIARA INVESTMENTS, INC.; AND: The east  $\frac{1}{2}$  of the SE  $\frac{1}{4}$  of the SW  $\frac{1}{4}$  of the SW  $\frac{1}{4}$  of Section 13, Township 55 South, Range 38 East, less the south 40' thereof for right-of-way purposes; A/K/A: Lot 76 of CIARA INVESTMENTS, INC.

LOCATION: Lying north of S.W. 136 Street, between S.W. 177 Avenue and S.W. 187 Avenue, Miami-Dade County, Florida, and

WHEREAS, a public hearing of the Board of County Commissioners was advertised and held, as required by the Zoning Procedure Ordinance, and all interested parties concerned in the matter were given an opportunity to be heard, and at which time the applicant requested permission to withdraw the requested district boundary change from GU to EU-2 (Item #1), the request for an unusual use to permit a private recreational facility; to wit: a clubhouse, including stables and boat storage (Item #3), the request to permit Lots 33, 34 and 35 with frontages varying from 94.52' to 138.02 (Item #5), and the request to waive the subdivision regulations requiring lots to have frontage on a public street; to permit a lot containing the private recreation facility with no frontage on a public street; and to have access to the said lot by means of a private easement (Item #6), and

WHEREAS, the applicant proffered a Declaration of Restrictions which among other things provided:

1. **Site Plan.** That the Property shall be developed substantially in accordance with the plans previously submitted, entitled, "Paradise Lake Ranches, Krome Gold Ranches II, LLLP," as prepared by Perez, Pascual and Killiddjian and Assocs., consisting of 18 sheets C1-C2, SP1-SP5 and L1-L5, dated stamped received September 12, 2008, and sheets A1-A6, dated stamped received February 29, 2008.. Said plans being on file with the Miami-Dade County Department of Planning and Zoning (the "Department"), and by reference made a part of this Declaration, as may be amended during the public hearing on the Application (the "Plans"). Notwithstanding the approval of the plans, the Owner shall install, and thereafter maintain, a continuous row of palms (the "Palms Buffer"), except for points of ingress and egress, of such size and species as may be approved by the Department, twenty-five feet (25') on center, along the Property's eastern and southern boundaries adjacent to the right-of-way for SW 177<sup>th</sup> Avenue and SW 136<sup>th</sup> Street (the "Roadways"). The Palms Buffer must be installed prior to the issuance of a certificate of completion for any residence adjacent to the Roadways. The location of the proposed farm residences on each parcel as shown on the Plans is strictly conceptual. The exact location of each farm residence on each of the parcels will be determined as the Property is developed. However, no residential structure may be located within two hundred feet (200) of the Roadways, which area may only be used for any permitted agricultural uses, activities and structures. The owner of each parcel may obtain a building permit or a zoning improvement permit for the construction of any accessory structure(s) on the parcel provided any such structure(s) conform to all applicable zoning regulations. All future additions

on each parcel that are in compliance with the applicable zoning regulations may be permitted as of right and shall not require approval at a public hearing.

2. **Maximum Number of Farm Residences.** That as reflected on the Plans, and notwithstanding the approval of the Application, no more than forty-seven (47) farm residences may be developed on the Property.
3. **Development Limitations & Criteria.** That all architectural expressions and design features shown on the facades shall remain as depicted on the elevation drawing Sheets SA-3 through SA-5 and A2 through A6 within the Plans. A substitution of an architectural element for another shall only be permitted upon approval by the Director of the Department.
4. **Traffic Improvements.** To facilitate ingress/egress to and from the Property, prior to the approval of a final plat for any portion of the Property, the Owner shall apply to either the Miami-Dade County Public Works Department or the Florida Department of Transportation (whichever by law has jurisdiction) for the approval of a deceleration/acceleration lane along portions of the Property on Krome Avenue (the "Traffic Improvements"). Notwithstanding anything in the Plans to the contrary, prior to the issuance of a building permit for any dwelling unit within the Property, the Owner shall install the Traffic Improvements. If after diligent efforts the Owner is unable to secure the necessary approvals for the Traffic Improvements, the Owner's obligation under this Paragraph shall be null and void and the Owner shall be released of any further liability under this Paragraph. For purposes of this Paragraph, the exercise of "diligent efforts" shall not require the Owner to institute administrative or judicial litigation to secure the necessary governmental approvals for the Traffic Improvements.
5. **Lake.** That the lake on the Property shall be owned and maintained by a homeowner's association, or similar entity, in accordance with applicable regulations. The lake on the Property shall be ancillary to the farm residences on the Property and, therefore, upon its completion, the lake shall be used solely (i) to satisfy the applicable drainage and storm water retention requirements applicable to the Property; (ii) for recreational purposes by the residents of the Property and their guests; and (iii) to the extent permitted by law, to draw water for irrigation of groves, nurseries, yards and landscaped area within the Property. The placement of accessory improvements, including docks and decks, and landscaping water ward of the top of slope on the residential lots on the Property shall conform to the regulations contained in Section 33-16.1 of the Code of Miami-Dade County. As required by the applicable regulations and conditions, the Owner will be required to post a cash performance bond or such equivalent instrument (the "Bond") as may be approved by the Director of the Department. The Bond shall not be released until the completion of the following: (i) the lake excavation, in accordance with the approved plans and regulations; (ii) the Traffic Improvements enumerated in, and subject to the conditions of, Paragraph 4 of this Declaration; (iii) the Equestrian Trail, as described in Paragraph 6 of this Declaration; (iv) the Private Drives, as described in Paragraph 7 of this Declaration; and (v) the roadway and landscaping at the entrance to the community, as depicted on the Plans. Upon completion of the lake, the Owner shall establish fish stocks in the lake in such a manner as to

maximize the lake's potential for fishing and to attract waterfowl and other wildlife to the Property.

6. **Equestrian Trail.** That as shown on the Plans, the Owner shall build a fifteen foot (15') wide shaded equestrian trail within the Property for the use and enjoyment of residents and their guests. Each farm residence shall have access to the equestrian trail. The equestrian trail shall be maintained by a homeowner's association, or similar entity, in accordance with applicable regulations.
7. **Private Drives.** That the Private drives, as shown on the Plans, shall be maintained by a homeowner's association, or similar entity, in accordance with applicable regulations. The guard/entrance feature will require separate zoning approvals. Should the Owner or the homeowner's association elect to provide a guardhouse at the entrance to the Property, as a means of controlling access to and from the Property, subject to the receipt of all necessary governmental approvals, said guardhouse shall be staffed by an off-duty police officer. In addition, the guardhouse shall be supplied with a portable defibrillator of such make and capacity as may be approved by the Miami-Dade Fire and Rescue Department.
8. **Notice of Proximity to Agricultural Operations and Activities.** That notwithstanding the zoning classification of the Property, or of the surrounding area, the Owner shall comply with the disclosure requirements of Section 33-284.1(b)(1) of the Code of Miami-Dade County; provided further, that the disclosure will inform its recipients that agricultural activities may take place both on the Property and in the surrounding area.

WHEREAS, the applicant proffered an additional condition at public hearing which among other things, provided:

That contemporaneously with the commencement of the excavation of the lake on the Property, the Owner shall, subject to obtaining the required permits, commence the construction of a low permeability barrier along the full length of the Property's western boundary. This barrier or cut-off wall shall be constructed so as to minimize the amount of seepage water from the Everglades National Park into the project and lake and, as such, the Owner shall construct this low permeability barrier (subject to obtaining the required permits) to a depth of approximately thirty feet (measured from land surface) and to consist of a slurry wall or such other barrier as may be approved by the Miami-Dade Department of Environmental Regulations and such other applicable regulatory agencies.

WHEREAS, this Board has been advised that the subject application has been reviewed for compliance with concurrency requirements for levels of services and, at this stage of the request, the same was found to comply with the requirements, and

*WHEREAS*, after reviewing the record and decision of the Miami-Dade County Community Zoning Appeals Board 11 and after having given an opportunity for interested parties to be heard, it is the opinion of the Board of County Commissioners, Miami-Dade County, Florida, that the grounds and reasons alleged by the appellants and specified in the appeal were sufficient to merit a reversal of the ruling made by the Community Zoning Appeals Board in Resolution No. CZAB11-14-08 and that the appeal should be approved and the decision of Community Zoning Appeals Board 11 should be overruled, and

*WHEREAS*, upon due and proper consideration having been given to the matter, it is the opinion of this Board that the requested unusual use to permit a lake excavation (Item #2) and the requests to waive the zoning regulations requiring half-section line rights-of-way to be 70' in width and to permit no dedication for theoretical S.W. 182 Avenue and theoretical S.W. 128 Street (Item #4) would be compatible with the area and its development, would be in harmony with the general purpose and intent of the regulations and would conform with the requirements and intent of the Zoning Procedure Ordinance; that the requested unusual use to permit a lake excavation (Item #2) would not have an adverse impact upon the public interest and should be approved; that the proffered Declaration of Restrictions and the extra condition proffered by the applicant should be accepted; that the requested withdrawal of the request for a district boundary change from GU to EU-2 (Item #1), the request for an unusual use to permit a private recreational facility; to wit: a clubhouse, including stables and boat storage (Item #3), the request to permit Lots 33, 34 and 35 with frontages varying from 94.52' to 138.02 (Item #5), and the request for a waiver of the zoning and subdivision regulations requiring non-residential lots to have frontage on a public street, to permit a lot containing the private recreation facility with no frontage on a public street, and to have access to the said lot by means of a private easement (Item #6) should be granted, and

WHEREAS, a motion to grant the appeal, overrule the decision of Community Zoning Appeals Board 11, accept the proffered Declaration of Restrictions and the extra condition proffered by the applicant, approve Item #2 and deem the lake a permitted unusual residential use, approve Item #4 as a non-use variance, allow the withdrawal of Items #1, 3, 5, and 6 without prejudice, and deny Item #4 without prejudice as an alternative non-use variance was offered by Commissioner Joe A. Martinez, seconded by Commissioner Jose "Pepe" Diaz, and upon a poll of the members present the vote was as follows:

Jose "Pepe" Diaz	aye	Dennis C. Moss	nay
Audrey M. Edmonson	absent	Dorrin D. Rolle	aye
Carlos A. Gimmenez	aye	Natacha Seijas	aye
Sally A. Heyman	aye	Katy Sorenson	nay
Barbara J. Jordan	nay	Rebecca Sosa	aye
Joe A. Martinez	aye	Sen. Javier D. Souto	nay
		Bruno A. Barreiro	aye

NOW THEREFORE BE IT RESOLVED by the Board of County Commissioners, Miami-Dade County, Florida, that the appeal be and the same is hereby approved and the decision of Community Zoning Appeals Board 11 is overruled.

BE IT FURTHER RESOLVED that the requested unusual use to permit a lake excavation (Item #2) be and the same is hereby approved, and that the requests to waive the zoning regulations requiring half-section line rights-of-way to be 70' in width and to permit no dedication for theoretical S.W. 182 Avenue and theoretical S.W. 128 Street (Item #4) be and the same are hereby approved as a non-use variance, with Items #2 and #4 subject to the following conditions:

1. That the plans submitted for a building permit be substantially in accordance with those submitted for the hearing entitled "Paradise Lake Ranches, Krome Gold Ranches II, LLLP," as prepared by Perez, Pascual and Killiddjian and Assocs., consisting of 18 sheets C1-C2, SP1-SP5 and L1-L5, dated stamped received September 12, 2008, and sheets A1-A6, dated stamped received February 29, 2008.
2. That the use be established and maintained in accordance with the approved plan.

3. That the lake tract be platted; no building permit shall be issued for the site until the lake excavation is completed and lake as-built drawings submitted to and approved by the Department of Planning and Zoning.
4. That complete lake excavation plans prepared and sealed by a Florida-licensed surveyor and/or professional engineer be submitted to and meet with the approval of the Director upon the submittal of an application for a lake excavation permit; said plans shall be substantially in accordance with that submitted for the hearing entitled "Paradise Lake Ranches," as prepared by Pascual, Perez, Killiddjian and Associates, Inc., dated stamped received 09/12/08 on sheets C-1 and C-2.
5. That the grading, levelling, sloping of the banks and perimeter restoration shall be on a progressive basis as the project develops and the excavation progresses. In accordance with this requirement, the applicant will submit "as built" surveys prepared and sealed by a Florida-licensed surveyor and/or professional engineer at one-fourth, one-half, three-fourths and final completion of the excavation or at six month intervals, whichever is of a lesser duration, or upon request of the Director of the Department of Planning and Zoning or the Director of the Department of Environmental Resources Management (DERM).
6. That the property shall be staked to meet with the approval of the Director of the Department of Planning and Zoning and the Director of the Department Environmental Resources Management; said stakes shall be maintained in proper position so that the limits of the excavation, slopes and grade levels may be easily determined.
7. That the property shall be suitably posted to meet with the approval of the Director of the Department of Planning and Zoning and the Director of the Department of Environmental Resources Management (DERM); said posting shall denote the lake excavation operation and warn the public concerning possible hazards, prior to commencement of the excavation.
8. That upon completion of the project, the property shall be restored and left in an acceptable condition meeting with the approval of the Director of the Department of Planning and Zoning and the Director of the Department of Environmental Resources Management.
9. Excess excavated material may be removed from the premises; however, the sale of said material shall be strictly prohibited.
10. That the use of explosives shall be strictly prohibited in connection with the lake excavation operation.
11. That the hours of the lake excavation operation shall be controlled by the Director of the Department of Planning and Zoning to ensure that the same does not become a nuisance to the surrounding area.

12. That, once the lake excavation operation commences, it shall be carried on continuously and expeditiously so that the entire project will be completed in three (3) years.
13. If the lake excavation operation is discontinued, abandoned, falls behind schedule or time expires, the existing excavation shall immediately be sloped to conform with the approved plans and the entire operation shall be removed from the premises.
14. That in order to insure compliance with all terms and conditions imposed, a cash bond or substantially equivalent instrument meeting with the approval of the Director shall be posted with the Department of Planning and Zoning, payable to Miami-Dade County, in an amount as may be determined and established by the Director of the Department of Planning and Zoning; said instrument shall be in such form that the same may be recorded in the public records of Miami-Dade County and said instrument shall be executed by the property owner and any and all parties who have an interest in the land, such as mortgagees, etc. The bond amount shall be based on the volume of cut required to create the approved slope configuration.
15. Upon the issuance of a lake excavation permit, the title of the property in question shall not be transferred without the approval of the Director of the Department of Planning and Zoning unless the excavation of the subject property has been completed and/or unless the bond has been released.
16. That the applicant obtain an Excavation Use Permit from and promptly renew the same annually with the Department of Planning and Zoning, upon compliance with all terms and conditions, the same subject to cancellation upon violation of any of the conditions.
17. All excavations shall be completely enclosed by a safety barrier, with a minimum height of 6 feet, consisting of either orange plastic safety fence or wood slat storm fencing installed on 4" x 4" posts spaced every 10 feet. Said barrier shall be installed prior to issuance of the excavation permit and commencement of excavating and shall remain in place until work is complete and the performance bond is released.
18. All excavations shall be posted every 50 feet with warning signs a minimum of 18" x 18" in size.
19. That the lake fill shall only be used on the subject property or within the current urban development boundary.
20. That contemporaneously with the commencement of the excavation of the lake on the subject property, the Owner shall, subject to obtaining the required permits, commence the construction of a low permeability barrier along the full length of the subject property's western boundary. This barrier or cut-off wall shall be constructed so as to minimize the amount of seepage water from the Everglades National Park into the project and lake and, as such, the Owner shall construct this low permeability barrier (subject to obtaining the required permits) to a depth of

approximately thirty feet (measured from land surface) and to consist of a slurry wall or such other barrier as may be approved by the Miami-Dade Department of Environmental Resources Management and such other applicable regulatory agencies.

21. That the applicant comply with all applicable conditions and requirements of the Department of Environmental Resources Management.
22. That the applicant comply with all applicable conditions and requirements of the Public Works Department.
23. That the applicant comply with all applicable conditions and requirements of the Fire-Rescue Department.

*BE IT FURTHER RESOLVED* that the requested withdrawal of the request for a district boundary change from GU to EU-2 (Item #1), the request for an unusual use to permit a private recreational facility; to wit: a clubhouse, including stables and boat storage (Item #3), the request to permit Lots 33, 34 and 35 with frontages varying from 94.52' to 138.02 (Item #5), and the request for a waiver of the subdivision regulations requiring non-residential lots to have frontage on a public street, to permit a lot containing the private recreation facility with no frontage on a public street, and to have access to the said lot by means of a private easement (Item #6) be and the same is hereby granted and said Items are hereby withdrawn without prejudice.

*BE IT FURTHER RESOLVED* that Item #4 be and the same is hereby denied without prejudice as an alternative non-use variance.

*BE IT FURTHER RESOLVED* that Resolution No. CZAB11-14-08 is hereby null and void.

*BE IT FURTHER RESOLVED* that, pursuant to Section 33-6 of the Code of Miami-Dade County, Florida, the County hereby accepts both the Declaration of Restrictions and the additional condition proffered by the applicant and does exercise its option to enforce the proffered restrictions wherein the same are more restrictive than applicable zoning regulations.

The Director is hereby authorized to make the necessary changes and notations upon the maps and records of the Miami-Dade County Department of Planning and Zoning and to issue all permits in accordance with the terms and conditions of this resolution.

***THIS RESOLUTION HAS BEEN DULY PASSED AND ADOPTED*** this 6th day of November, 2008, and shall become effective ten (10) days after the date of its adoption unless vetoed by the Mayor, and if vetoed, shall become effective only upon an override by this Board.

No. 08-6-CZ11-3

ej

HARVEY RUVIN, Clerk  
Board of County Commissioners  
Miami-Dade County, Florida

By: **KAY SULLIVAN**  
Deputy Clerk

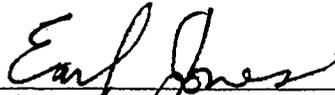
**THIS RESOLUTION WAS TRANSMITTED TO THE CLERK OF THE BOARD OF COUNTY COMMISSIONERS ON THE 18<sup>TH</sup> DAY OF DECEMBER, 2008.**

STATE OF FLORIDA

COUNTY OF MIAMI-DADE

I, Deputy Clerk's Name, as Deputy Clerk for the Miami-Dade County Department of Planning and Zoning as designated by the Director of the Miami-Dade County Department of Planning and Zoning and Ex-Officio Secretary of the Board of County Commissioners of said County, DO HEREBY CERTIFY that the above and foregoing is a true and correct copy of Resolution No. Z-28-08 adopted by said Board of County Commissioners at its meeting held on the 6<sup>th</sup> day of December, 2008.

IN WITNESS WHEREOF, I have hereunto set my hand and official seal on this the 18<sup>th</sup> day of December, 2008.



\_\_\_\_\_  
Earl Jones, Deputy Clerk (3230)  
Miami-Dade County Department of Planning and Zoning

SEAL





**Planning and Zoning**  
 111 NW 1st Street • Suite 1210  
 Miami, Florida 33128-1902  
 T 305-375-2800

December 18, 2008

miamidade.gov

**Carlos Alvarez, Mayor**

Krome Gold Ranches II L. L. P  
 c/o Juan Mayol  
 701 Brickell Avenue, Suite 3000  
 Miami, Florida 33131

Re: Hearing No. 08-6-CZ11-3  
 Location: Lying north of S.W. 136 Street, between S.W. 177 Avenue  
 and S.W. 187 Avenue, Miami-Dade County, Florida

Dear Applicant:

Enclosed herewith is Resolution No. Z-28-08, adopted by the Board of County Commissioners, which granted your appeal, accepted your proffered Declaration of restrictions, approved Items #2 and #4, and withdrew Items #1, 3, 5, and 6 on the above-described property. Please note the conditions under which said approval was granted, inasmuch as strict compliance therewith will be required. Failure to comply with stipulated conditions, if any, will result in the immediate issuance of a civil violation notice for each condition violated. Each notice issued may require payment of a daily monetary fine.

If stipulated in the resolution that building permits and/or use, occupancy or completion certificates will be required, please note that permits must be obtained and final inspection approvals received for construction work done or required prior to issuance of the applicable certificate(s) pursuant to Section 33-8 of the Zoning Code. Payment of certificates may be subject to annual renewal by this Department. Application for required permits and/or certificates related to use, occupancy or completion should be made with this Department, or the Building Department as appropriate. At time of permit application you must provide a copy of this resolution.

If there are anticipated changes from any plan submitted for the hearing, a plot use plan is to be submitted to this Department in triplicate before any detailed plans are prepared, inasmuch as building permits will not be issued prior to the approval of said plan.

The Board's decision may be appealed by an aggrieved party to Circuit Court within 30 days of the date of transmittal of the resolution to the Clerk of the County Commission. The transmittal date is **December 18, 2008**. In the event an appeal is filed, any building permit sought shall be at the risk of the party seeking said permit. Copies of any court filings concerning this matter should be served upon both my office and:

R. A. Cuevas, Jr.,  
 County Attorney  
 111 N.W. 1st Street, Suite 2810  
 Miami, Florida 33128-1993

The County Attorney is not permitted to accept official service of process.

Sincerely,  
  
 Earl Jones  
 Deputy Clerk

Enclosure

*Delivering Excellence Every Day*

- ADA Coordination
- Agenda Coordination
- Animal Services
- Art in Public Places
- Audit and Management Services
- Aviation
- Building
- Building Code Compliance
- Business Development
- Capital Improvements
- Citizens' Independent Transportation Trust
- Commission on Ethics and Public Trust
- Communications
- Community Action Agency
- Community & Economic Development
- Community Relations
- Consumer Services
- Corrections & Rehabilitation
- Cultural Affairs
- Elections
- Emergency Management
- Employee Relations
- Empowerment Trust
- Enterprise Technology Services
- Environmental Resources Management
- Fair Employment Practices
- Finance
- Fire Rescue
- General Services Administration
- Government Information Center
- Historic Preservation
- Homeless Trust
- Housing Agency
- Housing Finance Authority
- Human Services
- Independent Review Panel
- International Trade Consortium
- Juvenile Services
- Medical Examiner
- Metro-Miami Action Plan
- Metropolitan Planning Organization
- Park and Recreation
- Planning and Zoning**
- Police
- Procurement Management
- Property Appraisal
- Public Library System
- Public Works
- Safe Neighborhood Parks
- Seaport
- Solid Waste Management
- Strategic Business Management
- Team Metro
- Transit
- Task Force on Urban Economic Revitalization
- Vizcaya Museum And Gardens